

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES A. VER HELST and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Fort Meade, SD

*Docket No. 03-1045; Submitted on the Record;
Issued July 14, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant established that he sustained an injury in the performance of duty.

On July 25, 2001 appellant, then a 69-year-old program specialist, filed an occupational disease claim for a back or neck sprain, which he first became aware of on March 6, 2001.¹ Appellant, however, did not submit any medical evidence with his claim.

By letter dated August 28, 2001, the Office of Workers' Compensation Programs advised appellant that he needed to submit additional factual and medical evidence. In a decision dated October 1, 2001, the Office denied appellant's claim. The Office noted that the only information it had received was a Form CA-2.

Under cover letter dated September 25, 2001, the employing establishment forwarded appellant's July 27, 2001 statement and a July 31, 2001 statement from appellant's supervisor. The Office did not receive this information until October 2, 2001.

In his July 27, 2001 statement, appellant indicated that he was assigned to a light-duty position as a program specialist effective September 1, 1999. He noted that he had been a dentist but had sustained disabling thumb injuries in 1998. Appellant also noted prior claims for falls which occurred in December 1999 and January 2000. Appellant stated that he was assigned new duties on or about February 20, 2001 which caused "extreme neck, shoulder and upper back awareness and spasms." He also noted that his new duties caused incapacitating headaches on a daily basis.

¹ The computer-generated Form CA-2 references attachments for information regarding the nature of appellant's injury and relationship of illness to employment, however, the attachments were not included with the claim form.

On September 29, 2002 appellant requested reconsideration. Appellant also submitted an October 8, 2001 x-ray and magnetic resonance imaging (MRI) scan of the cervical spine and several medical reports from Dr. Craig G. Mills, a Board-certified physiatrist.

In a report dated October 2, 2001, appellant's treating physician, Dr. Mills, stated that he had examined appellant that day and noted a familiarity with his history of injury. He reported symptoms of constant and intermittent pain in the left hip, right thumb, upper back, shoulders and wrists. Dr. Mills diagnosed osteoarthritic conditions of the hand and wrist, neck pain, headaches, a low back condition, a right shoulder impingement syndrome and outstanding psychosocial work issues. He recommended further MRI scan studies.

An October 8, 2001 cervical spine x-ray showed degenerative disc changes at C4-5, some uncinat proliferative changes at C4-5, C5-6 and C6-7, mild to moderate lateral stenosis at C5-6 and C6-7, and mild degenerative facet changes. A cervical MRI scan taken that same day revealed a mild broad-based bulging disc at C4-5, a loss of disc space at C5-6 and C6-7, mildly compressed vertebra at C6, disc space narrowing at C6-7, and a normal finding at C7-T1.

On October 31, 2001 Dr. Mills stated that appellant's hand and wrist x-rays revealed degenerative changes at the right first carpometacarpal (CMC) and trapezius metacarpal joints, more severe on the right than left, and that an MRI scan revealed degenerative disc changes and uncinat changes from C4 to C6-7. His assessment remained essentially the same as his October 2, 2001 report.

In a follow-up report dated December 6, 2001, Dr. Mills stated that appellant had begun a trial of Vioxx medication. His assessments remained similar to prior reports. In a January 10, 2002 report, he stated that appellant underwent a barium study at the Veterans Administration hospital on December 11, 2002, but that the results were not available. Dr. Mills noted an additional diagnosis of possible gastroesophageal reflux disorder and possible intolerance of nonsteroidal medications. Appellant remained symptomatic with pain, most severe around the wrist and hands.

On February 26, 2002 Dr. Mills noted myalgia as well as osteoarthritis, cervical spondylosis and gastroesophageal reflux disorder in his assessment. In a report dated April 11, 2002, he noted that appellant "continues to have difficulties with arthralgias particularly about the neck and hands with him doing conversion of problems lists on charts requiring keyboard entering which aggravates his hand pain." Dr. Mills prescribed a home paraffin unit for pain relief. On July 8, 2002 he stated that appellant's CMC joint arthritis was work related. Dr. Mills' September 10, 2002 report essentially restated his prior findings.

By decision dated October 16, 2002, the Office denied modification of its October 1, 2001 decision.

The Board finds that appellant has not established that he sustained an injury in the performance of duty.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual

statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition was causally related to the employment factors identified by the claimant.²

The medical evidence required to establish a causal relationship generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific factors identified by the claimant.³

Appellant has failed to submit sufficient rationalized medical evidence establishing that he sustained an injury caused or aggravated by factors of his federal employment. In reports from October 2, 2001 to July 8, 2002, Dr. Mills stated that he examined appellant and noted multiple medical conditions including hand and wrist osteoarthritic problems, neck pain and headaches, low back pain and outstanding psychosocial work issues. However, Dr. Mills failed to address how appellant's diagnosed conditions were causally related to factors of his federal employment. The only reports in which Dr. Mills noted a causal relationship were his April 11 and July 8, 2002 reports where he noted that appellant's difficulties with arthralgias were caused by work, and that his CMC joint arthritis was caused by work. However, the Board has held that a medical opinion not fortified by medical rationale is of little probative value.⁴ The Board notes that none of the evidence supports that appellant's conditions were caused by either a fall at work or a head injury caused when he left work at the end of his shift.

As appellant failed to submit rationalized medical evidence establishing that he sustained an injury caused or aggravated by factors of his employment, the Board finds that he has failed to meet his burden of proof.

² *Donna L. Mims*, 53 ECAB ____ (Docket No. 01-1835, issued August 13, 2002).

³ *Allen C. Hundley*, 53 ECAB ____ (Docket No. 02-107, issued May 17, 2002).

⁴ *Annie L. Billingsley*, 50 ECAB 210 (1998).

The October 16, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
July 14, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member